

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

MARK RENFRO, <i>et al.</i> ,)	
)	
)	Case No.: 2:07-2098-BWK
Plaintiffs;)	
)	
v.)	
)	
UNISYS CORPORATION, <i>et al.</i> ,)	
)	
Defendants.)	

**NOTICE OF SUPPLEMENTAL AUTHORITY IN SUPPORT OF PLAINTIFFS’
OPPOSITION TO FIDELITY DEFENDANTS’ MOTION TO DISMISS AND IN
SUPPORT OF PLAINTIFFS’ MOTION FOR RELIEF
PURSUANT TO RULE 56(F)**

Plaintiffs submit this Notice of Supplemental Authority in support of their Opposition to Fidelity Defendants’ Motion to Dismiss and Plaintiffs’ Motion for Relief Pursuant to Rule 56(f) of the Federal Rules of Civil Procedure.

On July 16, 2008, Judge Stephen Wilson denied defendants’ Motion to Dismiss in a case alleging similar breaches of fiduciary duty by 401(k) plan sponsors and administrators. *Tibble v. Edison Int’l*, No. CV 07-5359 SVW (C.D. Cal. July 16, 2008).¹ Attached as Exhibit A. The *Edison* court’s analysis will considerably inform the issues presented here.

For reasons stated in Plaintiffs’ prior briefings and those expressed in *Tibble v. Edison Int’l*, Fidelity Defendants’ Motion to Dismiss should be denied. Further, Unisys Defendants’ Motion for Summary Judgment should be denied without prejudice or, in the alternative, Plaintiffs’ Motion for Relief Pursuant to Rule 56 (f) should be granted.

¹ The Order granted the Motion to Dismiss in part on one count against two of the defendants, but granted Plaintiffs leave to amend the complaint in accordance with Rule 12(b)(6). P 15-16.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

This is to certify that on July 28, 2008, a copy of the above was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

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